

LAW OFFICES OF  
**MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.**

SIDNEY T. MILLER (1884-1940)  
GEORGE L. CANFIELD (1866-1928)  
LEWIS H. PADDOCK (1866-1935)  
FERRIS D. STONE (1882-1945)

A PROFESSIONAL LIMITED LIABILITY COMPANY  
1400 NORTH WOODWARD AVENUE, SUITE 100  
BLOOMFIELD HILLS, MICHIGAN 48304

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WARSAW, POLAND

BRAD B. ARBUCKLE  
(810) 258-3050

March 28, 1997

RECORDATION No. 20603

Document to the  
1997

VIA HAND DELIVERY

The Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N.W., Suite 700  
Washington, D.C. 20423-0001

Re: Recordation Pursuant to 49 U.S.C. §11301

Dear Mr. Secretary:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. §11301, please find two original counterparts of a Security Agreement dated March 27, 1997 (the "Security Agreement"), a primary document as defined in the Surface Transportation Board's regulations governing the Recordation of Documents, 49 C.F.R. §1177.1(a). We request that this Security Agreement be cross-indexed with Recordation No. 16749, in which a security interest regarding the property that is the subject of this filing was recorded on January 31, 1990 in favor of NBD Bank, N.A., a national banking association. In addition, we request that you list this Security Agreement in your index under the name of each of the involved parties.

The names and addresses of the parties to the documents are as follows:

Mortgagors:  
(Debtors)

Lake State Railway Company  
211 Newman Street  
East Tawas, Michigan 48730

Mortgagee:  
(Secured Party)

Comerica Bank  
500 Woodward Avenue  
Detroit, Michigan 48226

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*Comment sent to a. y. 1997*

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

The Hon. Vernon A. Williams      -2-

March 28, 1997

The property covered by the Security Agreement includes the following:

LOCOMOTIVES

<u>Unit Number</u>	<u>Original Builder</u>	<u>Rebuilt Model</u>
1280	Alco	425-M
181	Alco	425-M
281	Alco	425-M
381	Alco	425-M
974	Alco	TE56-4A
975	Alco	TE56-4A
976	Alco	C-420
469-1	Alco	RS-2
977	Alco	RS-2
646	Alco	S-1
4610	Alco	RS-2

HOPPER CARS

<u>Series #</u>	<u># of Units</u>
5100 HT	48
5400 HT	32
5500 HT	5
5700 HT	29
5800 HT (5800-5824)	25
5900 HT	100
7000 HT	45
9600 HT	<u>4</u>

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Included in the property covered by the Security Agreement are railroad cars, locomotives, and other rolling stock intended for use related to interstate commerce, or interests therein, owned by the aforesaid mortgagor at the date of said Security Agreement or thereafter acquired by it or its successors as owners of the lines of railway covered by the Security Agreement.

(The owner of all of the above-described property is Lake State Railway Company.)

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

The Hon. Vernon A. Williams      -3-

March 28, 1997

*#24.00*

A fee of \$~~20.00~~ is enclosed. Please return any additional copies of the Security Agreement not needed to:

Brad B. Arbuckle, Esq.  
Miller, Canfield, Paddock and Stone, P.L.C.  
1400 North Woodward Avenue, Suite 100  
Bloomfield Hills, Michigan 48304  
(810) 645-5000

A short summary of the documents to appear in the index follows:

A security agreement between Lake State Railway Company, 211 Newman Street, East Tawas, Michigan 48730, and Comerica Bank, 500 Woodward Avenue, Detroit, Michigan 48226, dated March 27, 1997, covering locomotives and hopper cars.

Sincerely,

Miller, Canfield, Paddock and  
Stone, P.L.C.

By 

Brad B. Arbuckle  
An Attorney for Lake State  
Railway Company

caj  
Enclosures

RECORDATION No. 20603

Account to the

**SECURITY AGREEMENT**  
(Equipment)

For value received, the undersigned ("Debtor") grants to Comerica Bank, a Michigan banking corporation, whose address is 500 Woodward Avenue, Detroit, Michigan 48226 ("Bank"), a security interest in all Equipment and Fixtures of Debtor wherever located, now owned or later acquired including, without limitation, the Equipment described in attached Exhibit "A" and also in (a) all other similar property, wherever located, now owned or later acquired by Debtor, (b) all additions, attachments, accessions, parts, replacements, substitutions and renewals of or for all Equipment and Fixtures of Debtor, wherever located, now owned or later acquired, (c) all of Debtor's Property in Possession of Bank, and (d) the Proceeds and products of all of the above, to secure payment of any and all sums, indebtedness and liabilities of any and every kind now owing or later to become due to the Bank from Debtor or any or all of them during the term of this Agreement, however created, incurred, evidenced, acquired or arising, whether under any note(s), guaranty(ies), letter of credit agreement(s), evidence(s) of indebtedness or under any other instrument, obligation, guaranty, contract or agreement or dealing of any and every kind now existing or later entered into between the Debtor and the Bank, or otherwise, and whether direct, indirect, primary, secondary, fixed, contingent, joint or several, due or to become due, together with interest and charges, and including, without limit, all present and future indebtedness or obligations of third parties to the Bank which is guaranteed by the Debtor future indebtedness originally owing by the Debtor to third parties and assigned by third parties to the Bank, and any and all renewals, extensions or modifications of any of them (the "Indebtedness").

**1. Definitions.** As used in this Agreement:

- 1.1 "Collateral" means any and all property of Debtor in which Bank now has or by this Agreement now or later acquires a security interest.
- 1.2 "Credit Agreement" shall mean the Term Loan Agreement dated March 27, 1997 by and between Debtor and Bank, as the same may be amended from time to time.
- 1.3 "Debtor's Property in Possession of Bank" means goods, instruments, documents, policies and certificates of insurance, deposits, money or other property now owned or later acquired by Debtor or in which Debtor now has or later acquires an interest and which are now or later in possession of Bank or as to which Bank now or later controls possession by documents or otherwise.
- 1.4 "Environmental Law" shall have the meaning ascribed to such term in the Credit Agreement.

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BOARD

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- 1.5 "Equipment" and "Fixtures" each have the respective meaning assigned it in Article 9 of the Uniform Commercial Code, as of the date of this Agreement.
- 1.6 "Hazardous Materials" shall have the meaning ascribed to such term in the Credit Agreement.
- 1.7 "Proceeds" has the meaning assigned it in Article 9 of the Uniform Commercial Code, as of the date of this Agreement, and also includes without limit cash or other property which were proceeds and are recovered by a bankruptcy trustee or otherwise as a preferential transfer by Debtor.
- 1.8 "Uniform Commercial Code" means Act No. 174 of the Michigan Public Acts of 1962, as amended.
- 1.9 Except as otherwise provided in this Agreement, all terms used in this Agreement have the meanings assigned to them in Article 9 (or, absent definition in Article 9, in any other Article) of the Uniform Commercial Code, as of the date of this Agreement.

**2. Warranties, Covenants and Agreements.** Debtor warrants, covenants and agrees as follows:

- 2.1 The Collateral has been acquired (or will be acquired) for use primarily in business. Bank at its option may disburse loan proceeds directly to the seller of any Collateral to be acquired with proceeds of loans from Bank.
- 2.2 All items constituting a part of the Collateral which are Fixtures under applicable law or which are in fact attached to real estate are described in attached Schedule A (if any) (but the failure by Debtor to attach a Schedule A to this Agreement shall not in any way affect or impair Bank's security interest in Fixtures). There is also set forth in Schedule B (if any) a description of the real estate upon which all these items are located and the name(s) and address(es) of the owner(s) and mortgagee(s) of the real estate. Debtor upon demand of Bank shall furnish Bank with consents or disclaimers filed by all persons having an interest in the real estate (including without limit owners, mortgage holders and lessees) consenting to Bank's security interest and acknowledging its priority or disclaiming any interest in the Collateral. Debtor shall promptly notify Bank in writing of any after-acquired Collateral which may be or become Fixtures under applicable law.

- 2.3 At the time any Collateral becomes, or is represented to be, subject to a security interest in favor of Bank, Debtor shall be deemed to have warranted that (a) Debtor is the lawful owner of the Collateral and has the right and authority to subject the same to a security interest granted to Bank and (b) none of the Collateral is subject to any security interest other than that in favor of Bank and security interests permitted pursuant to the terms of the Credit Agreement ("Permitted Liens") and there are no financing statements on file other than in favor of Bank and with respect to Permitted Liens.
- 2.4 Debtor will keep the Collateral free at all times from any and all claims, liens, security interests and encumbrances other than those in favor of Bank and Permitted Liens. Debtor will not, without the prior written consent of Bank, sell, transfer or lease, or permit or suffer to be sold, transferred or leased any or all of the Collateral. Bank or its agents or attorneys may at all reasonable times inspect the Collateral and may enter upon all premises where the Collateral is kept or might be located. Debtor shall allow Bank to examine, inspect and make abstracts from, or copy any of Debtor's books and records (relating to the Collateral or otherwise).
- 2.5 Debtor will do all acts and things, and will execute all writings requested by Bank to establish, maintain and continue such perfected security interest of Bank in the Collateral with the priority contemplated in the Credit Agreement, and will pay on demand all costs and expenses of searches, filing and recording deemed necessary by Bank to establish, determine or continue the validity and the priority of Bank's security interest. With respect to any vehicle constituting a part of the Collateral, Debtor will take all steps necessary to place upon the vehicle's certificate of title an indication of the security interest of Bank and, at any time Bank reasonably requests, Debtor agrees to have a new certificate of title issued for that vehicle showing Bank's security interest in it. Debtor irrevocably (a) grants Bank the right to apply for a new certificate of title ("Certificate") covering any vehicle for the purpose of showing on that Certificate a new lien filing date or for any other purpose and (b) irrevocably appoints Bank and any employee or agent of Bank (which appointment is coupled with an interest) as its attorney-in-fact to sign all documents necessary to obtain new Certificates.

2.6 If Bank, acting in its sole discretion, redelivers Collateral to Debtor or Debtor's designee for the purpose of

- (a) the ultimate sale or exchange thereof, or
- (b) presentation, collection, renewal, or registration of transfer thereof, or
- (c) loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing therewith preliminary to sale or exchange,

such redelivery shall be in trust for the benefit of Bank and shall not constitute a release of Bank's security interest therein or in the proceeds or products thereof unless Bank specifically so agrees in writing. If Debtor requests any such redelivery, Debtor will deliver with such request a duly executed financing statement in form and substance satisfactory to Bank. Any proceeds of Collateral coming into Debtor's possession as a result of any such redelivery shall be held in trust for Bank and forthwith delivered to Bank for application on the Indebtedness. Bank may (if, in its sole discretion, it elects to do so) deliver the Collateral or any part of the Collateral to Debtor, and such delivery by Bank shall discharge Bank from any and all liability or responsibility for such Collateral.

2.7 Debtor acknowledges and agrees that the Bank has no obligation to acquire or perfect any lien on or security interest in any asset(s), whether realty or personalty, to secure payment of the Indebtedness, and Debtor is not relying upon assets in which the Bank has or may have a lien or security interest for payment of the Indebtedness.

2.8 Debtor will pay promptly and within the time that they can be paid without interest or penalty all taxes, assessments and similar imposts and charges which at any time are or may become, a lien, charge, or encumbrance upon any of the Collateral, except to the extent contested in good faith and bonded in a manner satisfactory to Bank and except as otherwise permitted under the Credit Agreement. If Debtor fails to pay any of these taxes, assessments, or other charges in the time provided above, Bank has the option (but not the obligation) to do so and Debtor agrees to repay all amounts so expended by Bank immediately upon demand, together with interest at the highest default rate which could be charged by Bank to Debtor on any Indebtedness.

- 2.9 Debtor will keep the Collateral in good condition and will safeguard and protect it from material loss, material damage or significant deterioration from any cause, except ordinary wear and tear. Debtor has and will maintain at all times (a) with respect to the Collateral, insurance against fire and other risks customarily insured against under an "all risk" policy and such other risks customarily insured against by persons similar in size and nature to Debtor, and (b) public liability insurance and other insurance as may be required by law or reasonably required by Bank, all of which insurance shall be in amount, form and content, and written by companies as may be satisfactory to Bank, naming Bank as sole payee as to the Collateral. Debtor will deliver to Bank evidence satisfactory to Bank that the required insurance has been procured. If Debtor fails to maintain satisfactory insurance, Bank has the option (but not the obligation) to do so and Debtor agrees to repay all amounts so expended by Bank immediately upon demand, together with interest at the highest default rate which could be charged by Bank to Debtor on any Indebtedness.
- 2.10 If any of the Collateral (or any records concerning the Collateral) is located or kept by Debtor on leased premises, Debtor will: (a) provide a complete and correct copy of all applicable leases to Bank, (b) furnish or cause to be furnished to Bank from each landlord under such leases a lessor's acknowledgment and subordination in form satisfactory to Bank authorizing, on Default, Bank's entry on such premises to enforce its rights and remedies under this Agreement and (c) comply with all such leases. Debtor's rights under all such leases shall further be part of the Collateral, and included in the security interest granted to Bank hereunder.
- 2.11 Debtor agrees to reimburse Bank upon demand for all reasonable fees and expenses incurred by Bank (a) in seeking to collect the Indebtedness or any part of it (through formal or informal collection actions, workouts or otherwise), in defending the validity or priority of its security interest, or in pursuing its rights and remedies under this Agreement or under any other agreement between Bank and Debtor; (b) in connection with any proceeding (including, without limit, bankruptcy, insolvency, administrative, appellate, or probate proceedings or any lawsuit) in which Bank at any time is involved as a result of any lending relationship or other financial accommodation involving Bank and Debtor; or (c) during the continuance of an Event of Default, which fees and expenses relate to or would not have been incurred but for any lending relationship or other financial accommodation involving Bank and Debtor. The fees and



expenses include, without limit, court costs, legal expenses, reasonable attorneys' fees, paralegal fees, internal transfer charges for in-house attorneys and paralegals and other services, and audit expenses.

2.12 Debtor at all times shall be in strict compliance with all applicable laws.

2.13 (a) Debtor is and shall be in compliance in all material respects with all applicable Environmental Laws. Debtor will not bring, and to the best knowledge of Debtor there are not, Hazardous Materials on, in or under any real or personal property ("Property") now or at any time owned, occupied, or operated by Debtor which in any manner violates any applicable Environmental Law or which could be subject to remediation pursuant to any applicable Environmental Law. Debtor has not disposed of, manufactured, treated, stored, handled, used, transported, or generated Hazardous Materials, and shall not in the future do any of the above acts in violation of any applicable Environmental Law.

(b) Debtor shall promptly conduct all investigations, testing, removal and other actions reasonably necessary to clean up and remove all Hazardous Materials on or affecting the Property in accordance with all applicable Environmental Laws. These actions will not be deemed to cure any breach of this section.

(c) Debtor shall defend, indemnify and hold harmless Bank, its employees, agents, shareholders, officers, and directors from and against any and all claims, damages, fines, expenses, liabilities or causes of action of whatever kind, including without limit consultant fees, legal expenses, and reasonable attorneys' fees, suffered by any of them as a direct or indirect result of any actual or asserted violation of any Environmental Law or of any remediation relating to the Property required by any Environmental Law.

(d) Upon ten days notice to Debtor (except in an emergency or where not practical under applicable law), Bank may (but is not obligated to) enter on the Property or take such other actions as it reasonably deems appropriate to inspect, test for, clean up, remove, minimize the impact of, or advise governmental agencies of the possible existence of any Hazardous Materials upon Bank's receipt of any

notice from any competent and reliable source asserting the existence of any Hazardous Materials in violation of applicable Environmental Laws. All costs and expenses so incurred by Bank, including without limit consultant fees, legal expenses, and reasonable attorneys' fees, shall be payable by Debtor upon demand, together with interest at the highest default rate which could be charged by Bank to Debtor on any Indebtedness.

- (e) The provisions of this section shall survive the repayment of the Indebtedness, the satisfaction of all other obligations of Debtor to Bank, the discharge or termination by Bank of any lien or security interest from Debtor, and the foreclosure of or exercise of rights as to any Collateral.

2.14 Debtor acknowledges and agrees that if any Guaranty is executed by the Debtor in connection with or related to this Agreement, all waivers contained in that Guaranty shall be and are incorporated by reference into this Agreement.

### **3. Defaults, Enforcement and Application of Proceeds.**

3.1 Upon the occurrence of any of the following events (each an "Event of Default"), Debtor shall be in default under this Agreement:

- (a) Any failure or neglect to comply with, or breach of, any of the terms, provisions, warranties or covenants of this Agreement, or any other agreement or commitment between Debtor or any guarantor of any of the Indebtedness ("guarantor") and Bank and continuance thereof beyond any applicable period of cure; or
- (b) Any failure to pay the Indebtedness when due, or such portion of it as may be due, by acceleration or otherwise and continuance thereof beyond any applicable period of cure; or
- (c) If the Collateral or any part of it ceases to be personal property unless shown to the contrary in this Agreement; or
- (d) Any warranty, representation, financial statement or other information made, given or furnished to Bank by or on behalf of Debtor or any guarantor shall be, or shall prove to have been, false or materially misleading when made, given, or furnished; or

- (e) Any material loss, material theft or substantial damage or destruction, to or of any of the Collateral, or the issuance or filing of any attachment, levy, garnishment or the commencement of any proceeding in connection with any of the Collateral or of any other judicial process of, upon or in respect of Debtor or any guarantor or any of the Collateral; or
- (f) Sale or other disposition by Debtor or any guarantor of any substantial portion of its assets or property, or voluntary suspension of the transaction of business by Debtor or any guarantor, or death, dissolution, termination of existence, merger, consolidation, insolvency, business failure, or assignment for the benefit of creditors of or by Debtor or any guarantor; or commencement of any proceedings under any state or federal bankruptcy or insolvency laws or laws for the relief of debtors by or against Debtor or any guarantor; or the appointment of a receiver, trustee, court appointee, sequestrator or otherwise, for all or any part of the property of Debtor or any guarantor; or
- (g) Any termination or notice of termination of any guaranty of collection or payment of, or any breach, termination or notice of termination of any subordination agreement, pledge, or collateral assignment relating to, all or any part of the Indebtedness; or
- (h) Any failure by Debtor or any guarantor to pay when due any of its indebtedness (other than to Bank) or in the observance or performance of any term, covenant or condition in any agreement evidencing, securing or relating to that indebtedness; or
- (i) Bank reasonably deems the margin of Collateral insufficient or shall fear material deterioration, removal or waste of the Collateral.

3.2 Upon the occurrence of any Event of Default, Bank may at its discretion and without prior notice to Debtor declare any or all of the Indebtedness to be immediately due and payable, and shall have and may exercise any one or more of the following rights and remedies:

- (a) exercise all the rights and remedies upon default, in foreclosure and otherwise, available to secured parties under the provisions of the Uniform Commercial Code and other applicable law;

- (b) institute legal proceedings to foreclose upon and against the lien and security interest granted by this Agreement, to recover judgment for all amounts then due and owing as Indebtedness, and to collect the same out of any of the Collateral or proceeds of any sale of it;
- (c) institute legal proceedings for the sale, under the judgment or decree of any court of competent jurisdiction, of any or all of the Collateral; and/or
- (d) personally or by agents, attorneys or appointment of a receiver, enter upon any premises where the Collateral or any part of it may then be located, and take possession of all or any part of it and/or render it unusable, and without, except as otherwise provided by applicable law, being responsible for loss or damage to such Collateral,
  - (i) hold, store, and keep idle, or lease, operate, remove or otherwise use or permit the use of, the Collateral or any part of it, for that time and upon those terms as Bank, in its sole discretion, deems to be in its own best interest, and demand, collect and retain all resulting earnings and other sums due and to become due from any party, accounting only for net earnings, if any (unless the Collateral is retained in satisfaction of the Indebtedness, in which case no accounting will be necessary) arising from that use (which net earnings may be applied against the Indebtedness) and charging against all receipts from the use of the Collateral or from its sale, by court proceedings or pursuant to subsection (ii) below, all other costs, expenses, charges, damages and other losses resulting from that use; and/or
  - (ii) sell, lease or dispose of, or cause to be sold, leased or disposed of, all or any part of the Collateral at one or more public or private sales, leaseings or other dispositions, at places and times and on terms and conditions as Bank may deem fit, without any previous demand or advertisement and, except as provided in this Agreement, all notice of sale, lease or other disposition, and advertisement, and other notice or demand, any right or equity of redemption, and any obligation of a prospective purchaser or

lessee to inquire as to the power and authority of Bank to sell, lease or otherwise dispose of the Collateral or as to the application by Bank of the proceeds of sale or otherwise, which would otherwise be required by, or available to Debtor under, applicable law are expressly waived by Debtor to the fullest extent permitted.

At any sale pursuant to this Section 3.2, whether under the power of sale, by virtue of judicial proceedings or otherwise, it shall not be necessary for Bank or a public officer under order of a court to have present physical or constructive possession of the Collateral to be sold. The recitals contained in any conveyances and receipts made and given by Bank or the public officer to any purchaser at any sale made pursuant to this Agreement shall, to the extent permitted by applicable law, conclusively establish the truth and accuracy of the matters stated (including, without limit, as to the amounts of the principal of and interest on the Indebtedness, the accrual and nonpayment of it and advertisement and conduct of the sale); and all prerequisites to the sale shall be presumed to have been satisfied and performed. Upon any sale of any of the Collateral, the receipt of the officer making the sale under judicial proceedings or of Bank shall be sufficient discharge to the purchaser for the purchase money, and the purchaser shall not be obligated to see to the application of the money. Any sale of any of the Collateral under this Agreement shall be a perpetual bar against Debtor with respect to that Collateral.

- 3.3 The proceeds of any sale or other disposition of Collateral authorized by this Agreement shall be applied by Bank first upon all expenses authorized by the Uniform Commercial Code and all reasonable attorney fees and legal expenses incurred by Bank; the balance of the proceeds of the sale or other disposition shall be applied in the payment of the Indebtedness, first to interest, then to principal, then to remaining Indebtedness, if any, and the surplus, if any, shall be paid over to Debtor or to such other person(s) as may be entitled to it under applicable law. Debtor shall remain liable for any deficiency, which it shall pay to Bank immediately upon demand.
- 3.4 Nothing in this Agreement is intended, nor shall it be construed, to preclude Bank from pursuing any other

remedy provided by law for the collection of any or all of the Indebtedness or for the recovery of any other sum to which Bank may be or become entitled for the breach of this Agreement by Debtor. Nothing in this Agreement shall reduce or release in any way any rights or security interests of Bank contained in any existing agreement between Debtor and Bank, nor shall anything in this Agreement modify the terms of any Indebtedness owing to Bank on a demand basis.

- 3.5 No waiver of default or consent to any act by Debtor shall be effective unless in writing and signed by an authorized officer of Bank. No waiver of any default or forbearance on the part of Bank in enforcing any of its rights under this Agreement shall operate as a waiver of any other default or of the same default on a future occasion or of any rights.
- 3.6 Debtor irrevocably appoints (which appointment is coupled with an interest) Bank or any employee or agent of Bank the true and lawful attorney of Debtor (with full power of substitution) in the name, place and stead of, and at the expense of, Debtor:
- (a) to give any necessary receipts or acquittances for amounts collected or received under this Agreement;
  - (b) to make all transfers of all or any part of the Collateral in connection with any sale, lease or other disposition made pursuant to this Agreement;
  - (c) to adjust and compromise any insurance loss on the Collateral and to endorse checks or drafts payable to Debtor in connection with the insurance;
  - (d) to execute and deliver for value all appropriate bills of sale, assignments and other instruments in connection with any sale, lease or other disposition of the Collateral. Debtor ratifies and confirms all that its said attorney (or any substitute) shall lawfully do under this Agreement. Nevertheless, if requested by Bank or a purchaser or lessee, Debtor shall ratify and confirm any sale, lease or other disposition by executing and delivering to Bank or the purchaser or lessee all proper bills of sale, assignments, releases, leases and other instruments as may be designated in any such request; and
  - (e) to execute and file in the name of and on behalf of Debtor all financing statements or other filings deemed necessary or desirable by Bank to evidence,

perfect or continue the security interests granted in this Agreement.

- 3.7 Upon the occurrence of an Event of Default, Debtor also agrees, upon request of Bank, to assemble the Collateral and make it available to Bank at any place designated by Bank which is reasonably convenient to Bank and Debtor.

#### **4. Miscellaneous.**

- 4.1 This Agreement shall in all respects be governed by and construed in accordance with the laws of the State of Michigan.
- 4.2 This Agreement shall be terminated only by the filing of a termination statement in accordance with the applicable provisions of the Uniform Commercial Code, but the obligations contained in Section 2.13 of this Agreement shall survive termination. Until terminated, the security interest created by this Agreement shall continue in full force and effect and shall secure and be applicable to all advances now or later made by Bank to Debtor, whether or not Debtor is indebted to Bank immediately prior to the time of any advance, and to all other Indebtedness.
- 4.3 Notwithstanding any prior revocation, termination, surrender or discharge of this Agreement, the effectiveness of this Agreement shall automatically continue or be reinstated, as the case may be, in the event that any payment received or credit given by the Bank in respect of the Indebtedness is returned, disgorged or rescinded as a preference, impermissible setoff, fraudulent conveyance, diversion of trust funds, or otherwise under any applicable state or federal law, including, without limitation, laws pertaining to bankruptcy or insolvency, in which case this Agreement shall be enforceable against Debtor as if the returned, disgorged or rescinded payment or credit had not been received or given, whether or not the Bank relied upon this payment or credit or changed its position as a consequence of it. In the event of continuation or reinstatement of this Agreement, Debtor agree(s) upon demand by the Bank to execute and deliver to the Bank those documents which the Bank reasonably determines to be appropriate to further evidence (in the public records or otherwise) such continuation or reinstatement, although the failure of Debtor to do so shall not affect in any way the reinstatement or continuation. If Debtor does not execute and deliver to the Bank upon demand such documents, then Bank and each Bank officer is irrevocably appointed (which appointment is coupled with an interest) the true and lawful attorney of Debtor (with full power

of substitution) to execute and deliver such documents in the name and on behalf of Debtor.

- 4.4 This Agreement and all the rights and remedies of Bank under this Agreement shall inure to the benefit of Bank's successors and assigns and to any other holder who derives from Bank title to or an interest in the Indebtedness or any portion of it, and shall bind Debtor and the heirs, legal representatives, successors and assigns of Debtor.
- 4.5 If there is more than one Debtor, all undertakings, warranties and covenants made by Debtor and all rights, powers and authorities given to or conferred upon Bank are made or given jointly and severally.
- 4.6 In addition to Bank's other rights, any indebtedness owing from Bank to Debtor can be set off and applied by Bank on any Indebtedness at any time(s) either before or after maturity or demand without notice to anyone.
- 4.7 In the event that applicable law shall obligate Bank to give prior notice to Debtor of any action to be taken under this Agreement, Debtor agrees that a written notice given to it at least seven business days before the date of the act shall be reasonable notice of the act and, specifically, reasonable notification of the time and place of any public sale or of the time after which any private sale, lease, or other disposition is to be made, unless a shorter notice period is reasonable under the circumstances. A notice shall be deemed to be given under this Agreement when delivered to Debtor or when placed in an envelope addressed to Debtor and deposited, with postage prepaid, in a post office or official depository under the exclusive care and custody of the United States Postal Service. The mailing shall be registered, certified or first class mail.
- 4.8 A carbon, photographic or other reproduction of this Agreement shall be sufficient as a financing statement under the Uniform Commercial Code and may be filed by Bank in any filing office.
- 4.9 No single or partial exercise, or delay in the exercise, of any right or power under this Agreement, shall preclude other or further exercise of the rights and powers under this Agreement.
- 4.10 The unenforceability of any provision of this Agreement shall not affect the enforceability of the remainder of this Agreement.



- 4.11 No amendment or modification of this Agreement shall be effective unless the same shall be in writing and signed by Debtor and an authorized officer of Bank.
- 4.12 This Agreement and the Loan Documents (as defined in the Credit Agreement) constitute the entire agreement of Debtor and Bank with respect to the subject matter of this Agreement.
- 4.13 To the extent that any of the Indebtedness is payable upon demand, nothing contained in this Agreement shall modify the terms and conditions of that Indebtedness nor shall anything contained in this Agreement prevent Bank from making demand, without notice and with or without reason, for immediate payment of any or all of that Indebtedness at any time(s), whether or not an Event of Default has occurred.

**5. Statement of Business Name, Residence and Location of Collateral.** Debtor warrants, covenants and agrees as follows:

- 5.1 Debtor's chief executive office is located in the County of Iosco.

Mailing Address: 211 Newman Street  
East Tawas, Michigan 48730.

This location is (check one box):

☐ Owned ☒ Leased by the Debtor.

- 5.2 Any other places of business and/or residences of Debtor are indicated below: \_\_\_\_\_.

- 5.3 Debtor's correct legal name is set forth at the end of this Agreement. During the past five years, Debtor has not conducted business under any other name except as set forth in any appropriately labeled schedule attached to this Agreement.

- 5.4 Until Bank is advised in writing by Debtor to the contrary, all notices, requests and demands required under this Agreement or by law shall be given to, or made upon, Debtor at the address indicated in Section 5.1 above.

- 5.5 The Collateral (or any records concerning the Collateral) will be kept at Debtor's address(es) above.

- 5.6 Debtor will give Bank not less than 90 days prior written notice of all contemplated changes in Debtor's name, identity, corporate structure, and/or any of the above

addresses, but the giving of this notice shall not cure any default caused by this change.

6. Jury Waiver.

6.1 DEBTOR AND BANK ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. EACH PARTY, AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF THEIR CHOICE, KNOWINGLY AND VOLUNTARILY, AND FOR THEIR MUTUAL BENEFIT WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION REGARDING THE PERFORMANCE OR ENFORCEMENT OF, OR IN ANY WAY RELATED TO, THIS AGREEMENT OR THE INDEBTEDNESS.

7. Special Provisions Applicable to this Agreement. None

Dated and delivered on:

March 27, 1997

at Detroit, Michigan

LAKE STATE RAILWAY COMPANY

By: 

Signature of James George

Its: Executive Vice President

STATE OF MICHIGAN )  
 ) SS:  
COUNTY OF OAKLAND )

On this 27th day of March, 1997 before me personally appeared James George, to me personally known, who being by me duly sworn, says that he is the Executive Vice President of Lake State Railway Company, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

  
Notary Public

County, Michigan  
My Commission Expires: \_\_\_\_\_

[SEAL]

CECILIA A. JACOBSON, NOTARY PUBLIC  
OAKLAND COUNTY, STATE OF MICHIGAN  
MY COMMISSION EXPIRES: 09/20/98

## EQUIPMENT LIST

<u>Description</u>	<u>Serial No.</u>
Tandon Tower 486/50 EISA Computer w/16mb SIMM RAM	88F2hA00005
Samsung MA2565 12" Amber TTL Monitor	H8WB100456
Partner TTL Video Display Card	675468
Micropolis Raidion Harddrive AR1588-01-7 670mb Drive No. 1	AD0003496
Drive No. 2 (Includes US Mini SCSI cable kit)	AD0003491
Adaptec EISA SCSI Harddrive Controller AHA-1740A Drive No. 1	B01350729
Drive No. 2	B01188544
Thomas Conrad TCNS Smarthub TC3050-CX	92196026B
Thomas Conrad TCNS ISA Adapter TC3045-CX No. 1	92220248B
No. 2	92220257B
Thomas Conrad TCNS MC Adapter TC3046-CX No. 1	92300085
No. 2	92320010
No. 3	92300082
Novell Netware v3.11 10 User	6081234

All inventory and shop supplies

### Vehicles:

<u>NO.</u>	<u>MAKE</u>	<u>TYPE</u>	<u>DRIVER/LOCATION</u>
D66*	Ford	Stake	Wrecking
D123	Ford	1T P/U	Alpena Carman
D141	Ford	Van	Bay City Carman
D154*	Ford	Stake	MW Repair
D156		Trailer	Lowboy Trailer

\* Denotes Hi-Rail

### Office Equipment:

All equipment, furniture and fixtures including an IBM PC PS2 model 50 and HP lasarjet printer and facsimile machines.

All track equipment and other portable equipment (including a C-508 Industrial Brown Hoist 40 ton railcrane).

#### Railroad Equipment:

##### Locomotive Roster:

<u>Unit Number</u>	<u>Original Builder</u>	<u>Rebuilt Model</u>
1280	Alco	425-M
181	Alco	425-M
281	Alco	425-M
381	Alco	425-M
974	Alco	TE56-4A
975	Alco	TE56-4A
976	Alco	C-420
469-1	Alco	RS-2
977	Alco	RS-2
646	Alco	S-1
4610	Alco	RS-2

##### Railcar Inventory:

<u>Hopper Cars Series #</u>	<u># of Units</u>
5100 HT	48
5400 HT	32
5500 HT	5
5700 HT	29
5800 HT (5800-5824)	25
5900 HT	100
7000 HT	45
9600 HT	4

#### Railroad Right-of-Way:

A line of railroad and related rail structures, fixtures and facilities in the State of Michigan between the following points:

<u>Segment</u>	<u>Mile Post</u>	<u>County</u>
Pinconning Subdivision	5.0 - 11.0	Bay, Arenac
	Crossover	
Mackinaw Subdivision	11.0 - 116.0	Alcona, Bay
	116.0 - 121.0	Arenac, Ogemaw, Roscommon, Crawford, Otsego

<u>Segment</u>	<u>Mile Post</u>	<u>County</u>
Huron Subdivision	16.0 - 151.25	Alcona, Iosco, Arenac, Alpena, Presque Isle
Roger City Branch	0.0 - 11.0	Presque Isle
Hillman Branch	Entire Branch	Alpena
Alabaster Branch	Entire Branch	Iosco
North Bay City Yard	Entire Yard	Bay

and the stations, spurs, yard and passing tracks, and connections related thereto, including all track, ties, rail, other track material, wires, pipes, conduits, poles, guys, bridges, switches, buildings, culverts, signals, scales, related roadbed structures and certain interests in the underlying real estate associated with the operation of said line of railroad.